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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,008	10/18/2000	Claton F. Clevenger	1322	4517

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KSOPHT0101-Z2100  
OVERLAND PARK, KS 66251-2100

EXAMINER
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WILSON, ROBERT W

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/691,008

Applicant(s)

CLEVENGER, CLATON F.

Examiner

Robert W Wilson

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### **DETAILED ACTION**

1.0 The application of Claton F. Clevenger entitled "COMMUNICATION SYSTEM FOR DEDICATED AND SWITCHED COMMUNICATIONS" filed 10/18/2000 without foreign priority was examined. Claims 1-34 are pending.

#### ***Drawings***

2.0 The drawings in this application were accepted by the Draftsperson as formal.

#### ***Claim Rejections - 35 USC § 112***

3.0 The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4.0 Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term dedicated communication in claims 1, 7-10, 12, 19-22, 24, & 30-33 is used in the claims to mean "private network communications which can be voice (which within the art is switched communications), video, data frame relay or an IP network per Pg 8 line 1 of the specification", while the accepted meaning is "dedicated communication" means non-switched. The term is indefinite because the specification does not clearly redefine the term.

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Sometimes the applicant utilizes dedicated communication as communication that is for a private network and other times utilizes dedicated communications as if there is a fixed connection where no switching is performed.

**Claim Rejections - 35 USC § 112**

**5.0** The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**6.0** Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term switched communication in claims 1, 12, 23, & 24 is used in the claims to mean “public network communications which can be voice (which within the art is switched communications), video, data frame relay (packet switched) or an IP network (packet switched) per Pg 8 line 5 of the specification”, while the accepted meaning is “switched communication” means the communication is switched. The term is indefinite because the specification does not clearly redefine the term.

Sometimes the applicant utilizes switched communication as communication that is for a public network and other times utilizes switched communications as if there are circuit switched connections.

**Claim Rejections - 35 USC § 112**

**7.0** The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 24-34 are rejected relative to 112/2<sup>nd</sup> paragraph as being indefinite because the metes and bounds of the claims cannot be assessed.

Referring to Claims 24-32, What is meant by “software product” and “processing system”? Is a “software product” being claimed or a “processing system” being claimed?

### ***Claim Rejections - 35 USC § 101***

#### **8.0** 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 24-34 are rejected relative to U.S.C. 101 because they lack utility.

Referring to Claim 24, a “software product” is not a process, machine, article of manufacture, or composition of matter; therefore, it lacks utility.

Referring to Claims 25-34, a “product” is not a process, machine, article of manufacture, or composition of matter; therefore, these claims lack utility.

### ***Conclusion***

**9.0** The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1.0 Gardner et. al., Patent No.: 6,704,327 B1, dated 3/9/2004 which discloses an apparatus which handles call processing associated with a first and second message and inserts an identifier. This patent is also assigned to Sprint and has a filing date and publishing date which was copending with applicant's patent.


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2.0 Jurkevich et. al., Patent No.: 5,251,209, dated 10/5/1993 which discloses an apparatus which handles call processing associated with a first message associated with integrated voice, data, and video. This patent is also assigned to Sprint.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W Wilson whose telephone number is (703) 305-4102. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas Olms can be reached on (703) 305-4703. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

  
Robert W Wilson  
Examiner  
Art Unit 2661

RWW

April 1, 2004

